

§ 4204.22

§ 4204.22 PBGC action on requests.

(a) *General.* The PBGC shall approve a request for a variance or exemption if PBGC determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of title IV of ERISA; and

(2) Would not significantly increase the risk of financial loss to the plan.

(b) *Notice of pendency of request.* As soon as practicable after receiving a variance or exemption request containing all the information specified in § 4204.21, the PBGC shall publish a notice of the pendency of the request in the FEDERAL REGISTER. The notice shall provide that any interested person may, within the period of time specified therein, submit written comments to the PBGC concerning the request. The notice will usually provide for a comment period of 45 days.

(c) *PBGC decision on request.* The PBGC shall issue a decision on a variance or exemption request as soon as practicable after the close of the comment period described in paragraph (b) of this section. PBGC's decision shall be in writing, and if the PBGC disapproves the request, the decision shall state the reasons therefor. Notice of the decision shall be published in the FEDERAL REGISTER.

PART 4206—ADJUSTMENT OF LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

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AUTHORITY: 29 U.S.C. 1302(b)(3) and 1386(b).

SOURCE: 61 FR 34086, July 1, 1996, unless otherwise noted.

§ 4206.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to prescribe rules, pursuant to section 4206(b) of ERISA, for adjusting the partial or complete withdrawal liability of an employer that previously partially withdrew from the same multi-employer plan. Section 4206(b)(1) provides that when an employer that has partially withdrawn from a plan subsequently incurs liability for another partial or a complete withdrawal from that plan, the employer's liability for the subsequent withdrawal is to be reduced by the amount of its liability for the prior partial withdrawal (less any waiver or reduction of that prior liability). Section 4206(b)(2) requires the PBGC to prescribe regulations adjusting the amount of this credit to ensure that the liability for the subsequent withdrawal properly reflects the employer's share of liability with respect to the plan. The purpose of the credit is to protect a withdrawing employer from being charged twice for the same unfunded vested benefits of the plan. The reduction in the credit protects the other employers in the plan from becoming responsible for unfunded vested benefits properly allocable to the withdrawing employer. In the interests of simplicity, the rules in this part provide for, generally, a one-step calculation of the adjusted credit under section 4206(b)(2) against the subsequent liability, rather than for separate calculations first of the credit under section 4206(b)(1) and then of the reduction in the credit under paragraph (b)(2) of that section. In cases where the withdrawal liability for the prior partial withdrawal was reduced by an abatement or other reduction of that liability, the adjusted credit is further reduced in accordance with § 4206.8 of this part.

(b) *Scope.* This part applies to multi-employer plans covered under title IV of ERISA, and to employers that have partially withdrawn from such plans after September 25, 1980 and subsequently completely or partially withdraw from the same plan.